

NOTIFICATION

(LAW DEPARTMENT)

No. LAW 30 LCA 65, Bangalore, dated 16th March 1965.

Ordered that the Income-tax (Amendment) Ordinance, 1965 (I of 1965), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 6th January, 1965 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
*Under Secretary to Government,
Law Department.*

THE INCOME-TAX (AMENDMENT) ORDINANCE, 1965

No. I OF 1965

Promulgated by the President in the Fifteenth Year
of the Republic of India.

An Ordinance further to amend the Income-tax
Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement*—(1) This Ordinance may be called the Income-tax (Amendment) Ordinance, 1965.

(2) It shall come into force at once.

2. *Amendment of section 132*—In section 132 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the principal Act),—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Where the Commissioner, in consequence of information in his possession, has reason to believe that—

(a) any person to whom a summons under sub-section (1) of Section 37 of the Indian Income-tax Act, 1922 (II of 1922), or under sub-section (1) of

Section 131 of this Act, or a notice under sub-section (4) of Section 22 of the Indian Income-tax Act, 1922, (II of 1922), or under sub-section (1) of Section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account, or other documents as required by such summons or notice, or

(b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (II of 1922), or under this Act, or

(c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed for the purposes of the Indian Income-tax Act, 1922 (II of 1922), or this Act (hereinafter referred to as the undisclosed income or property),

he may authorise any Inspecting Assistant Commissioner or any Income-tax Officer to—

(i) enter and search any building or place where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(ii) seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iii) place marks of identification on any such books of account or other documents or make or cause to be made extracts or copies therefrom;

(iv) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing.

(1A) The Inspecting Assistant Commissioner or the Income-tax Officer authorised under sub-section (1) may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in that sub-section and it shall be the duty of every such officer to comply with such requisition.

(1B) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as the assets) is seized under sub-section (1), the Income-tax Officer, after making an enquiry in such manner as may be prescribed, shall, within ninety days of the seizure, make an order, with the previous approval of the Commissioner,—

(i) estimating the undisclosed income (including the income from the undisclosed property) in a summary manner to the best of his judgments on the basis of such materials as are available with him;

(ii) calculating the tax on the income so estimated in accordance with the provisions of the Indian Income-tax Act, 1922 (II of 1922), or this Act;

(iii) specifying the amount that will be required to satisfy any existing liability under this Act and any one or more of the Acts specified in clause (a) of sub-section (1) of Section 230 A in relation to which such person is in default or is deemed to be in default,

and retain in his custody, for application in the prescribed manner, such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts specified in clauses (ii) and (iii) and forthwith release the remaining portion, if any, of

the assets to the person from whose custody they were seized:

Provided that if, after taking into account the materials available with him, the Income-tax Officer is of the view that it is not possible to ascertain to which particular previous year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income assessable for the assessment year in which the assets were seized.

(1C) If the Income-tax Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Income-tax Officer may proceed under sub-section (1B) against such other person and all the provisions of that sub-section shall apply accordingly.”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) If any person objects for any reason to an order made under sub-section (1B), he may within thirty days of the date of such order, make an application to the Board stating therein
 • the reasons for such objection and requesting for appropriate relief in the matter.”;

(iii) in sub-section (5), after the words, brackets and figure “under sub-section (4)”, the words, brackets, figure and letter “or sub-section (4A)” shall be inserted;

(iv) in sub-section (7), for the word “searches”, the words “any search or seizure” shall be substituted;

(v) the following *Explanations* shall be inserted at the end, namely:—

‘*Explanation* 1.—In computing the period of ninety days for the purposes of sub-section (1B), any period

during which any proceeding under this Section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.—In this Section, the word “proceeding” means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this Section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.’

3. *Amendment of Section 271*—In Section 271 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(4A) Notwithstanding anything contained in clause (iii) of sub-section (1), the Commissioner may, in his discretion, reduce or waive the amount of minimum penalty imposable on a person under the said clause if he is satisfied that such person—

(a) has, prior to the detection by the Income-tax Officer, of the concealment of particulars of income in respect of which the penalty is imposable, or the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars;

(b) has co-operated in any enquiry relating to the assessment of such income; and

(c) has either paid or made satisfactory arrangements for payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year:

Provided that if in a case the minimum penalty imposable under clause (iii) of sub-section (1) in

respect of the relevant assessment year, or where such disclosure relates to more than one assessment year, the aggregate of the minimum penalty imposable in respect of those years, exceeds a sum of rupees fifty thousand, no order reducing or waiving the penalty shall be made by the Commissioner unless the previous approval of the Board has been obtained.

(4B) An order under sub-section (4A) shall be final and shall not be called in question before any court of law or any other authority."

4. *Amendment of Section 279.*—In Section 279 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) A person shall not be proceeded against for an offence under Section 277 in relation to the assessment for an assessment year in respect of which the penalty imposable upon him under clause (iii) of sub-section (1) of Section 271 has been reduced or waived by an order under sub-section (4A) of that Section."

5. *Validation of certain searches made.*—Any search of a building or place by an Inspecting Assistant Commissioner or Income-tax Officer purported to have been made in pursuance of sub-section (1) of Section 132 of the principal Act before the commencement of this Ordinance shall be deemed to have been made in accordance with the provisions of that sub-section as amended by this Ordinance as if those provisions were in force on the day the search was made and shall not be called in question before any court or any other authority merely on the ground—

(i) that the Inspecting Assistant Commissioner or the Income-tax Officer made such search with the assistance of any other person; or

(ii) that no proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or the principal Act was pending against the person concerned when the search was authorised under the said sub-section.

S. RADHAKRISHNAN,
President.

R. C. S. SARKAR,
Secy. to the Govt. of India.